

**PROTOCOL
BETWEEN
THE GOVERNMENT OF
THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF JAMAICA
TO THE AGREEMENT
CONCERNING COOPERATION IN SUPPRESSING
ILLICIT MARITIME DRUG TRAFFICKING**

The Government of the United States of America and the Government of Jamaica, (hereinafter, "the Parties");

Recalling the Agreement Between the Government of the United States of America and the Government of Jamaica Concerning Cooperation in Suppressing Illicit Maritime Drug Trafficking, signed at Kingston May 6, 1997 (hereinafter, "the Agreement");

Recalling also the Memorandum of Understanding between the Parties, signed in Kingston, May 6, 1997 (hereinafter "the MOU");

Considering the continuing firm commitment of both Governments to wage an aggressive campaign against drug trafficking;

Desiring to supplement the Agreement and MOU in order to enhance cooperation in the suppression of illicit traffic by sea and air by providing additional protection to civil aircraft in flight and by facilitating multi-national counter-drug operations;

Mindful of the general international law with respect to the use of force against civil aircraft in flight as reflected in the Convention on International Civil Aviation, adopted at Chicago December 7, 1944 and Article 3 *bis* thereto, adopted at Montreal May 10, 1984.

Have agreed as follows:

ARTICLE 1

1. The following paragraph 6 is added to Article 3, Shipboarding, of the Agreement:

"6. In cases arising in the contiguous zone of a Party, not involving suspect vessels fleeing from the waters of that Party or suspect vessels flying the flag of or registered in that Party, in which both Parties have the authority to exercise jurisdiction to prosecute, the Party which conducts the boarding and search shall have the right to exercise jurisdiction".

Paragraphs 6, 7 and 8 of Article 3 of the Agreement are renumbered as paragraphs 7, 8 and 9, respectively.

2. Paragraph 1 of Article 11, Aircraft Support for Suppression of Illicit Traffic, of the Agreement is amended to read:

"1. When there are reasonable grounds to suspect that a vessel or aircraft is engaged in illicit traffic and that vessel or aircraft is located in or over, or is entering the waters or airspace of one Party (the "first Party"), the law enforcement officials of the other Party shall provide such information regarding the suspect vessel or aircraft to the person designated by the Central Authority of the first Party and a request may be made by the other Party for its aircraft to:

(a) overfly the territory and waters of the other Party in pursuit of the suspect vessel or aircraft fleeing into or located within its waters or airspace;

(b) maneuver to maintain visual and electronic contact with the suspect vessel or aircraft; and

(c) subject to the laws of each Party, with due regard for its laws and regulations for the flight and maneuver of aircraft, relay orders from its competent authorities to suspect aircraft to land in the territory of the other Party."

3. The following paragraph 5 is added to Article 11 of the Agreement, as follows:

"5. When maneuvering to maintain contact with a suspect aircraft, the Parties shall not endanger the lives of persons on board or the safety of civil aircraft."

Paragraphs 5, 6 and 7 of Article 11 of the Agreement are renumbered as paragraphs 6, 7 and 8, respectively.

4. Article 12, Other Assistance, of the Agreement is amended to read:

"1. Each Party, after authorization by its Central Authority, may permit, on the occasions and for the time necessary for the proper performance of the operations required under this Agreement, law enforcement aircraft operated by the other Party to land and temporarily remain at international airports in accordance with international norms for the purposes of resupplying fuel and provisions, medical assistance, minor repairs, weather, and other logistics and related purposes.

"2. The law enforcement authority of one Party (the "first Party") may request, and the law enforcement authority of the other Party may authorize, law enforcement officials of the other Party to provide technical assistance to law enforcement officials of the first Party for the investigation, boarding, and search of suspect vessels located in the territory or waters of the first Party.

"3. Nothing in this Agreement precludes a Party from otherwise expressly authorizing other assistance in suppressing illicit traffic."

5. The following Article 14 *bis*, Third Party Platforms, is added to the Agreement, as follows:

"Article 14 *bis*
Third Party Platforms

"1. Law enforcement officials of the Parties may also operate pursuant to this Agreement from vessels and aircraft of other States, including any boat or aircraft embarked on vessels, that are clearly marked and identifiable as being on government non-commercial service and authorized to that effect, as may be agreed to in writing by the Parties, in accordance with arrangements completed by either Party with those other States.

"2. The personnel of any of the other States agreed to pursuant to paragraph 1 of this Article may, in emergencies and under highly exceptional circumstances, assist law enforcement officials of the Parties in conducting boardings and searches.

6. Article 17, Use of Force, of the Agreement is amended to read:

"1. All use of force by a Party pursuant to this Agreement shall be in strict accordance with applicable laws and policies of the respective Party and shall in all cases be the minimum reasonably necessary and proportionate under the circumstances, except that neither Party shall use force against civil aircraft in flight.

"2. The boarding and search teams may carry standard small arms.

"3. All use of force by a Party within Jamaican or United States waters pursuant to this Agreement shall be in strict accordance with the laws and policies of the Party within whose waters the force is used.

"4. Authorizations to board, search and detain vessels and persons on board include the authority to use force in accordance with this Article to compel compliance.

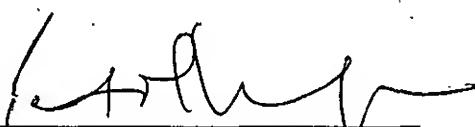
"5. Nothing in this Agreement shall impair the exercise of the inherent right of self-defense by the law enforcement or other officials of the Parties."

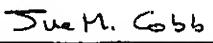
ARTICLE II

This Protocol shall enter into force upon notification by each Party that it has completed its respective constitutional requirements for entry into force of the Protocol and shall remain in force concurrent with the Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at Kingston, Jamaica this 6 day of February, 2004, in duplicate.


FOR THE GOVERNMENT OF
JAMAICA


FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

I CERTIFY THAT THE FOREGOING COPY IS A TRUE AND FAITHFUL COPY OF THE ORIGINAL DOCUMENT, HAVING BEEN CAREFULLY EXAMINED AND COMPARED AND FOUND TO AGREE WORD FOR WORD AND FIGURE FOR FIGURE IN WITNESS WHEREOF I HAVE SIGNED AND AFFIXED THE SEAL OF THE UNITED STATES OF AMERICA AT KINGSTON, JAMAICA THIS 6 DAY OF February 2004.

JEANNE M. GALLO 
Vice Consul of the CONSUL OF THE UNITED STATES OF AMERICA
AT KINGSTON, JAMAICA